

NEWS RELEASE

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**DO NOT CALL LAW UPHELD
BY NORTH DAKOTA SUPREME COURT**

BISMARCK – The North Dakota Supreme Court ruled in favor of the State's Do Not Call Law today, declaring North Dakota's statute is not preempted by federal law.

"This decision reaffirms the right of states like North Dakota to pass legislation to protect their citizens where the federal government does not go far enough," said Attorney General Wayne Stenehjem.

The case was originally brought in Burleigh County District Court to enforce North Dakota's Do Not Call law against FreeEats.com, Inc., a Virginia marketing company directing unauthorized prerecorded messages to North Dakota telephone subscribers. FreeEats.com argued that federal law, which treats prerecorded messages differently, should trump North Dakota's law. Judge Gail Hagerty disagreed, finding North Dakota's statute was not preempted by federal law and that FreeEats had violated state law. FreeEats paid \$20,000 in penalties and fees to the Attorney General. The Attorney General also intends to seek attorney fees and costs relating to the appeal.

In a unanimous decision the Supreme Court affirmed the trial court, ruling that Congress clearly and unambiguously intended to allow States to enact laws prohibiting interstate telemarketing calls using artificial or prerecorded voice messages. The Supreme Court said, "It has long been recognized that the police power of a state extends beyond the health, morals, and safety of the community, and encompasses the duty to protect the privacy of its citizens, including the authority to protect the peaceful enjoyment of the home and the well-being and tranquility of the community."

"The telemarketing industry and its lobbyists are working overtime to roll back the protections enjoyed by North Dakota's citizens," Stenehjem said. "My office is committed to defending the consumers' right to choose not to be bothered by intrusive and unwanted calls."

FreeEats has also filed a petition with the Federal Communications Commission, in Washington, D.C., asking the Commission to declare North Dakota's law preempted by federal law. The Attorney General is opposing the petition and filed a brief that was joined by Attorneys General from 42 states and territories. A decision on the petition is pending.

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